

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

JOHNNIE D. COOK,

Petitioner,

vs.

EDWARD SHELDON,

Respondent.

:
:
:
:
:
:
:
:
:
:
:

CASE NO. 5:12-CV-2972

OPINION & ORDER
[Resolving Doc. No. [4](#)]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

On December 4, 2012, Johnnie Cook filed a petition under 28 U.S.C. § 2254 to vacate his state convictions for, among other things, aggravated murder and aggravated burglary.^{1/} He also moved to stay the federal habeas proceedings so that he could exhaust his remedies in state court.^{2/} This Court referred both the petition and the motion to stay to Magistrate Judge James Knepp II for a Report and Recommendation.

On June 21, 2013, Magistrate Judge Knepp recommended denying both the petition and the motion to stay. He says that the motion to stay ought to be denied because Cook's "claims were, in fact, exhausted in state court. Petitioner filed a motion for leave to file a delayed appeal along with a notice of appeal to the Ohio Supreme Court."

The Federal Magistrates Act requires a district court to conduct a *de novo* review only of those portions of a Report and Recommendation to which the parties have made an objection.^{3/} Parties must file any objections to a Report and Recommendation within fourteen days of service.^{4/}

^{1/}Doc. [1](#).

^{2/}Doc. [4](#).

^{3/}[28 U.S.C. § 636\(b\)\(1\)\(C\)](#).

^{4/}[Id.](#); [Fed. R. Civ. P. 72\(b\)\(2\)](#).

Case No. 5:12-CV-2972
Gwin, J.

Failure to object within this time waives a party's right to appeal the district court's judgment.^{5/}

Absent objection, a district court may adopt the magistrate judge's report without review.^{6/}

Here, Petitioner has not objected to any portion of Magistrate Judge Knepp's Report and Recommendation. Moreover, having conducted its own review of the record in this case, the Court agrees with the conclusions of Magistrate Judge Knepp as to Petitioner's motion to stay. Accordingly, the Court **ADOPTS IN PART** Magistrate Judge Knepp's Report and Recommendation and incorporates it herein by reference, and **DENIES** Petitioner's motion to stay his habeas proceedings. The Court will consider the other portions of the Report and Recommendation in fourteen days from the filing of this order.

IT IS SO ORDERED.

Dated: August 8, 2013

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE

^{5/}[*Thomas v. Arn*, 474 U.S. 140, 145 \(1985\); *United States v. Walters*, 638 F.2d 947, 949-50 \(6th Cir. 1981\).](#)

^{6/}[See *Thomas*, 474 U.S. at 149.](#)